



US Army Corps
of Engineers
St Paul District

APPLICANT: Daniel E. Thiel

Public Notice

ISSUED: October 24, 2001

EXPIRES: November 23, 2001

REFER TO: 99-06761-TJF

SECTION: 404 - Clean Water Act

After-The-Fact

1. APPLICATION FOR PERMIT TO conduct clearing and drainage activities and retain or place dredged/fill material in wetlands on a 160 acre parcel in Beltrami County, Minnesota.

Because a portion of the project has been completed, if it is determined that issuance of the after-the-fact permit is contrary to the public interest, corrective action may be taken in connection with the work already accomplished.

2. SPECIFIC INFORMATION.

APPLICANT'S ADDRESS: 1101 Rhinehart Dr SE
East Grand Forks, MN 56721

PROJECT LOCATION: The project site is located in the SW 1/4 Sec. 30, T. 156N., R. 36W., Beltrami County, Minnesota. The approximate UTM coordinates are Zone 14, North 5352000, East 327000.

BACKGROUND: After purchasing the property in 1990, the applicant cleared several long narrow lanes through portions of the site. The purpose of this clearing was to create shooting lanes for deer hunting. Four deer hunting stands have been constructed along some of these lanes.

The lanes are generally about 20 to 25 feet wide; however, portions of the lane running diagonally into the property from the northeast corner is about 40 feet wide. During the clearing operation topsoil was scraped away and pushed along both sides of the cleared lanes. It is estimated that these topsoil piles are 3 to 5 feet wide. The total area of wetland cleared and/or filled is about 4.5 acres.

While conducting this scraping/clearing work, it is apparent that the equipment blade periodically was lowered beyond what was desired by the applicant. Because of high groundwater in the area, this scraping resulted in several areas along the shooting lanes becoming too wet for passage.

DESCRIPTION OF PROPOSED WORK: To correct the problem of several very wet areas within the shooting lanes, the applicant proposes to refill portions of the lanes to allow for passage. Although the typical width of the shooting lanes is 20 to 25 feet, the applicant, who has limited mobility, only proposes to fill areas about 8 feet wide to allow for pedestrian and small vehicle passage. The attached aerial photograph shows the entire parcel and the estimated 11 areas where this refilling would occur. In most areas the fill material would

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come from the original soil material scraped during the creation/clearing of the shooting lanes about 10 years ago.

To cross over these wettest spots, the refill areas would typically measure 8 feet wide by 20 to 30 feet long. However, in the southeast portion of the site one of the refill areas would measure 8 feet wide by approximately 100 feet long. It is expected that the thickness of the fill material would be about 1 foot in order to allow passage through the shooting lanes. The total area to be refilled would be about 3,200 square feet.

As mentioned above, the fill material would be the original scraped soil from the lanes. However, the applicant has requested that he be allowed to utilize fill material from an existing judicial ditch spoil bank to refill two areas in the southeast portion of the site.

In addition to correcting the passage problems along the shooting lanes, the applicant has requested approval to construct an access trail into the parcel from the west. The entire length of the trail would be about 500 feet. He indicated that in the first 200 feet very little earth work or scraping would be needed to clear the area; however, the remaining 300 feet would require clearing, plus scraping, to acquire enough fill material to create a trail base. Material would be scraped and pushed from 3 to 4 feet on either side of the trail to create a trail width of about 8 feet. The wetland area to be impacted by the clearing, scraping and filling for this trail would be about 6,100 square feet.

The purpose of this trail would be to gain access to two areas that are somewhat higher in elevation where the applicant wishes to plow and then plant alfalfa as food plots for deer. The applicant estimates that the two food plot areas would total about 7 acres.

To successfully plant alfalfa in these areas the applicant anticipates the need to lower the groundwater. To accomplish this, the applicant proposes to create two shallow, narrow ditches in the two locations shown on the photograph. The southern ditch would extend about 150 feet into the parcel, and would be about 3 to 4 feet wide and 4 to 6 inches deep. The western ditch would be about 200 feet long, and also about 3 to 4 feet wide and 4 to 6 inches deep. The applicant stated that the purpose of the ditches is not to convert large areas of wetland to upland, but to lower the groundwater enough just to allow the planting of an alfalfa crop as a food plot for deer.

The western ditch would extend from the location of an existing 12 inch PVC culvert pipe which has been installed through the existing spoil pile that parallels the judicial ditch along the west side of the parcel. This pipe would need to be lowered 4 to 6 inches to allow the proposed 200 foot ditch to function. The southern ditch would extend into the site from an existing cut or notch in a judicial ditch spoil bank that parallels the south boundary of the site.

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In the area of both of these proposed ditches, and at one other notch location along the spoil bank, natural erosion has allowed a limited amount of drainage runoff from the interior of the site. These small eroded cuts through the spoil bank are less than 14 inches wide and 5 inches deep, but had some flowing water during a May 2001 site visit. The two proposed ditches would extend from two of these existing small erosion runout sites.

VEGETATION IN AFFECTED AREA: The majority of the 160 acre parcel consists of varied wetland habitats, including forested, scrub shrub, and wet meadow areas. Dominant plant species include aspen, poplar, ash, willow, alder, Canada blue-joint grass, and sedges. Other species include bulrush, bentgrass, phragmites, and foxtail. Two other plants found on the site include arrow leaf sweet coltsfoot and Vasey's rush.

The applicant indicated that logging was recently done on portions of the site, including much of the southern part of the site. A review of historical photographs shows evidence that some of the proposed food plot areas were plowed in the 1940's. But there is no evidence that active farming of the area has taken place since that time.

LAND USE: Much of the land surrounding this 160 acre parcel is farmed, with typical crops being wheat, barley, soybeans, alfalfa and hay. The applicant has a cabin located in the northwest corner of the parcel. The Beltrami County soil survey indicates small areas of moderately drained soils in the area of the cabin, and in the northeast and southeast corners of the site. The remainder of the site is indicated as having poorly drained soils.

3. REPLIES/COMMENTS.

Interested parties are invited to submit to this office written facts, arguments, or objections within 30 days of the date of this notice. These statements should bear upon the suitability of the location and the adequacy of the project and should, if appropriate, suggest any changes believed to be desirable. Comments received may be forwarded to the applicant.

Replies may be addressed to Regulatory Branch, St. Paul District, Corps of Engineers, 190 Fifth Street East, St. Paul, MN 55101-1638.

Or, IF YOU HAVE QUESTIONS ABOUT THE PROJECT, call Tim Fell at the St. Paul office of the Corps, telephone number (651) 290-5360.

4. FEDERALLY-LISTED THREATENED OR ENDANGERED WILDLIFE OR PLANTS OR THEIR CRITICAL HABITAT.

None were identified by the applicant or are known to exist in the permit area. However, Beltrami County is within the known or historic range of the following Federally-listed threatened species:

| <u>Species</u> | <u>Habitat</u> |
|----------------|----------------|
| Bald eagle | Breeding |

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Gray wolf

Northern forested areas
(a primary range county)

This application is being coordinated with the U.S. Fish and Wildlife Service. Any comments it may have concerning Federally-listed threatened or endangered wildlife or plants or their critical habitat will be considered in our final assessment of the described work.

5. JURISDICTION.

This project comes under the regulatory jurisdiction of the Corps of Engineers because the unnamed wetlands on the site are adjacent to Judicial Ditch 11, which flows to the Thief River, and then into the Red Lake River, which is a navigable water of the United States.

REGULATORY AUTHORITY: This application will be reviewed according to the provisions of Section 404 of the Clean Water Act. Therefore, our public interest review will consider the guidelines set forth under Section 404(b) of the Clean Water Act (40 Code of Federal Regulations 230).

THE APPLICANT HAS STATED THAT THE FOLLOWING LOCAL PERMITS HAVE BEEN ISSUED/APPLIED FOR: Red Lake Watershed District (approved); Minnesota Wetland Conservation Act (pending).

6. STATE SECTION 401 WATER QUALITY CERTIFICATION.

Valid Section 404 permits cannot be issued for any activity unless state water quality certification for the activity is granted or waived pursuant to Section 401 of the Clean Water Act. The state Section 401 authority in Minnesota is the Minnesota Pollution Control Agency (MPCA). The St. Paul District has provided this public notice and a copy of the applicant's Section 404 permit application form to the MPCA. If MPCA needs any additional information in order for the Section 401 application to be considered complete by MPCA, the MPCA has indicated that it will request such information from the applicant. It is the permit applicant's responsibility to ensure that the MPCA has received a valid, complete application for state Section 401 certification and to obtain a final Section 401 action from the MPCA.

The MPCA has indicated that this public notice serves as its public notice of the application for Section 401 water quality certification under Minnesota Rules Part 7001. The MPCA has also indicated that the time period provided by the Clean Water Act for it to take a final Section 401 action shall begin to commence upon the issuance date of this public notice unless the MPCA notifies both the St. Paul District and the permit applicant to the contrary, in writing, before the expiration date of this public notice.

Any comments relative to MPCA actions concerning the activity proposed in this public notice must be sent before the expiration date of this public notice period to:

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Minnesota Pollution Control Agency
Metro District - Attention 401 Certification
520 Lafayette Road
St. Paul, Minnesota 55155-4194

Telephone (651) 297-8219

7. HISTORICAL/ARCHAEOLOGICAL.

This public notice is being sent to the National Park Service, the State Archaeologist, and the State Historic Preservation Officer to determine if there are known cultural resources which may be affected by the described work. Any unknown archaeological, scientific, or historical data could be lost or destroyed by the work described in the permit application. However, the latest version of the National Register of Historic Places has been consulted and no listed properties (known to be eligible for inclusion, or included in the Register) are located in the project area.

8. PUBLIC HEARING REQUESTS.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, in detail, the reasons for holding a public hearing. A request may be denied if substantive reasons for holding a hearing are not provided or if there is otherwise no valid interest to be served.

9. PUBLIC INTEREST REVIEW.

The decision whether to issue a permit will be based on an evaluation of the probable impact, including cumulative impacts, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered, including the cumulative effects. Among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production and, in general, the needs and welfare of the people. Environmental and other documents will be available for review in the St. Paul District Office.

The Corps of Engineers is soliciting comments from the public; Federal, State, and local agencies and officials; Indian tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects,

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and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

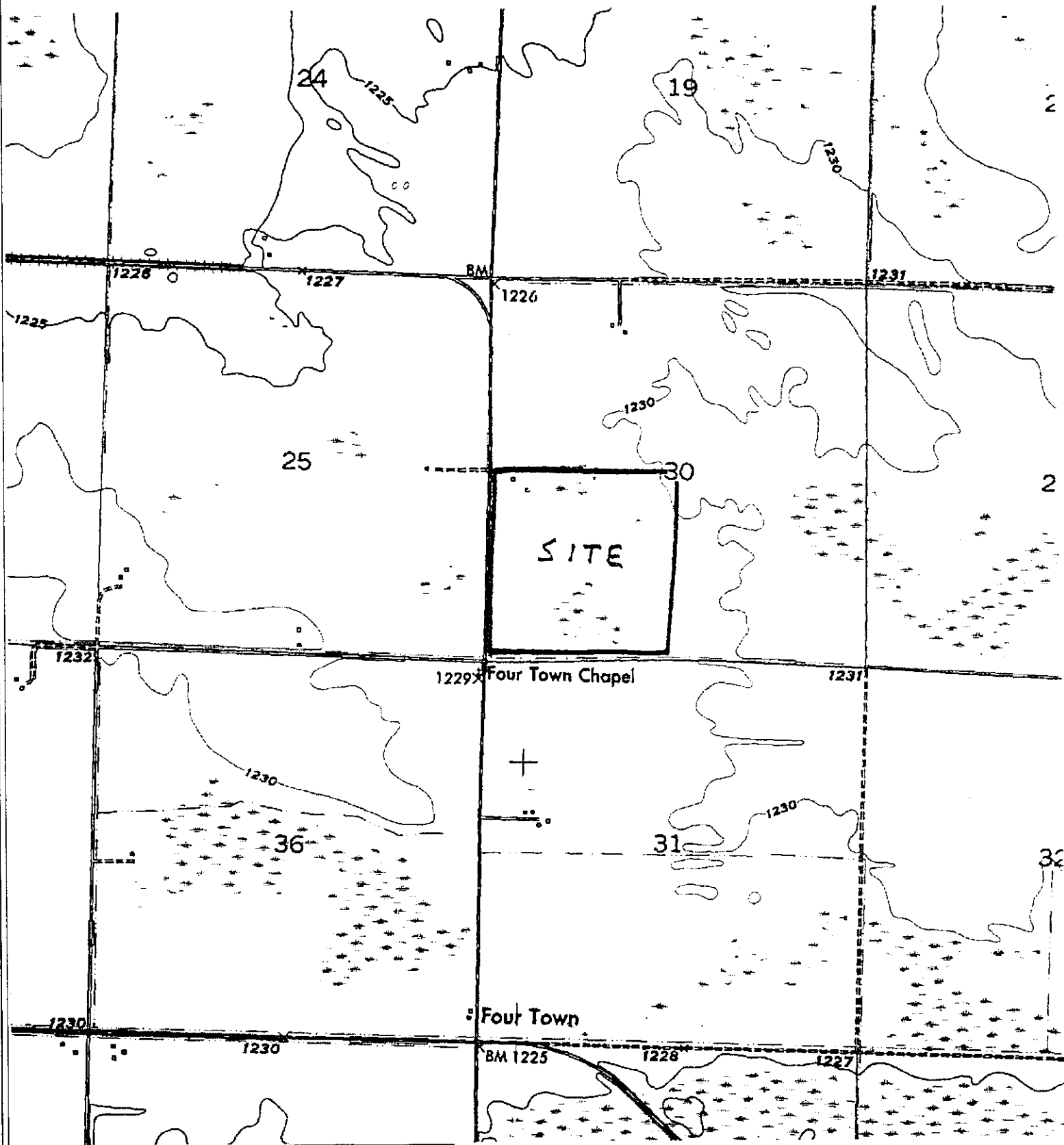


Ralph Augustin
Chief, Metro Permits Section

Enclosures

NOTICE TO EDITORS: This public notice is provided as background information and is not a request or contract for publication.

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CABIN

FOOD
PLOT
- 50x

FOOD
PLOT

SL

A

SL = SHOOTING LANE
[] = REFILL AREAS
- - - - = DITCH + SPOIL BANK
XXX = PROPOSED DITCHES
[] [] = ACCESS TRAIL
A.T.R. - ABOUT 2100 FT

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